IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

CRL.A.No. 139 of 2002()

ST.2299/1998 of JUDL.MAGISTRATE OF FIRST CLASS, ETTUMANUR
.....

APPELLANT: COMPLAINANT

O.T.GEORGE, ONASSERIL, KALPUZHA,
KOTTAYAM.

BY ADV. SRI.M.J.THOMAS

RESPONDENTS: STATE AND ACCUSED
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1. **P.V.BABU S/O. VELAYUDHAN,**
   PUTHENPARAMBIL HOUSE, KAIPUZHA, KOTTAYAM.

2. **THE STATE OF KERALA, REPRESENTED BY THE**
   PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.A.NO.725 of 2001

DATED THIS THE 30th DAY OF JULY 2007

JUDGMENT

Appellant is the complainant in C.C.No.505/2000, the proceedings initiated under section 138 of the Negotiable Instruments Act in which the accused was acquitted under section 256(1) Cr.P.C. It is submitted that the complainant could not appear on the particular day due to the wrong noting of the posting date.

2. In the circumstances, the appeal is allowed. The order of the court below is set aside. The court below is directed to permit the complainant to further pursue the matter and dispose of the case on merits.

The complainant shall appear before the JFCM-III, Thrissur on 30-8-2007. The court below shall issue fresh summons to the accused.

(K.R.UDAYABHANU)

JUDGE.

kvm/-

K.R.UDAYABHANU, J.

CRL.A.No.139 of 2002.

JUDGMENT

30-7-2007.